

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

ONH AFC CS INVESTORS LLC, *et al.*,
Debtors.

Chapter 11 (Subchapter V)

Case No. 23-10931 (CTG)

(Jointly Administered)

Ref. No. 260

CERTIFIED
TRUE COPY
ATTEST:

JUNA M. O'BOYLE
U.S. BANKRUPTCY COURT

Deputy Clerk

5/30/24

**ORDER GRANTING MOTION OF THE LIQUIDATING TRUSTEE FOR ENTRY OF
AN ORDER (I) ENFORCING THE SCHWARTZ NIGHTINGALE SETTLEMENT AND
CONFIRMATION ORDER, (II) ENTERING JUDGMENTS AGAINST THE
SCHWARTZ NIGHTINGALE PARTIES, AND (III) GRANTING RELATED RELIEF**

Upon the *Motion of the Liquidating Trustee for Entry of an Order (I) Enforcing the Schwartz Nightingale Settlement and Confirmation Order, (II) Entering Judgments Against the Schwartz Nightingale Parties, and (III) Granting Related Relief* (the “Motion”)¹ for an entry of an order (this “Order”) enforcing the Settlement Agreement and Confirmation Order, and entering judgments against the Schwartz Nightingale Parties and granting related relief; all as more fully set forth in the Motion; and upon due and sufficient notice of the Motion having been provided under the particular circumstances, and it appearing that no other or further notice need be provided; and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated February 29, 2012; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b) and the Court may enter a final order consistent with Article III of the United States Constitution; and the Court having found that venue of this proceeding and this Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having

¹ Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to them in the Motion.

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determined that the legal and factual bases set forth in the Motion and at the hearing thereon establish just cause for the relief granted herein; and good and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Motion is **GRANTED** as set forth herein.
2. The final judgment attached hereto as **Exhibit 1** is hereby entered against Elchonon Schwartz, One Night Holdings LLC, Nightingale Properties, LLC, One Night Properties LLC, ES28 Investments LLC, Nightingale Property Group LLC, The Nightingale Group, LLC, Five Park 3003 LLC, 1 Westend PH-A LLC, 320 Mountain Rd. LLC and Midnight Capital Partners LLC, (collectively the “Consent Schwartz Nightingale Judgment”).
3. The final judgment attached hereto as **Exhibit 2** is hereby entered against ES 1 Westend Residence Trust, The Elchonon Schwartz Family Trust, ES28 Investments Trust, ES ONH Trust, and ES Family Life Insurance Trust (“Schwartz Trusts Judgment” and together with the Consent Schwartz Nightengale Judgment, the “Judgments”).
4. The Liquidating Trust is authorized and empowered to take such actions as may be necessary and appropriate to implement the terms of this Order and to enforce the Judgments.
5. This Court shall retain jurisdiction over all matters arising from or related to the implementation, interpretation, and enforcement of this Order.
6. This Court shall retain jurisdiction with respect to any matters, claims, rights or disputes arising from or related to the Motion or the implementation of this Order.



Dated: May 7th, 2024
Wilmington, Delaware

CRAIG T. GOLDBLATT
UNITED STATES BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

ONH AFC CS INVESTORS LLC, *et al.*,¹

Debtors.

Chapter 11 (Subchapter V)

Case No. 23-10931 (CTG)

(Jointly Administered)

FINAL JUDGMENT

These cases came before the Court to consider entry of a final judgment based on the *Declaration of Consent to Entry of Judgment* (Doc. No. 260-1)² filed on April 18, 2024 (the “Declaration”). The Declaration was executed in connection with a settlement agreement dated October 2, 2023 (the “Settlement Agreement”). Based upon the Declaration, the Consent Schwartz Nightingale Parties³ consent to the entry of a final judgment due to a breach of the Settlement Agreement. Accordingly, the Court orders that:

The Debtors and Liquidating Trust recover from the Consent Schwartz Nightingale Parties the amount of \$54,949,935.14, which includes prejudgment interest and postjudgment interest at the federal judgment interest rate **for which execution lie**.

¹ The last four digits of the Debtors’ federal tax identification numbers are 1199 (ONH AFC CS Investors LLC) and 6326 (ONH 1601 CS Investors LLC). The Debtors’ mailing address is 3445 Peachtree Road, Suite 1225 Atlanta, GA 30326.

² Capitalized terms not defined herein shall have the meanings ascribed to them in the Declaration or the Settlement Agreement, as applicable.

³ The Consent Schwartz Nightingale Parties are: Elchonon Schwartz; One Night Holdings, LLC; Nightingale Properties LLC; One Night Properties LLC; ES28 Investments LLC; Nightingale Property Group LLC; The Nightingale Group, LLC; Five Park 3003 LLC; 1 Westend PH-A LLC; 320 Mountain Rd. LLC; and Midnight Capital Partners LLC.

EXHIBIT 2

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

ONH AFC CS INVESTORS LLC, *et al.*,¹

Debtors.

Chapter 11 (Subchapter V)

Case No. 23-10931 (CTG)

(Jointly Administered)

FINAL JUDGMENT

These cases came before the Court to consider entry of a final judgment based on the *Declaration of Consent to Entry of Judgment (Doc. No. 260-2)*² filed on April 18, 2024 (the “Declaration”). The Declaration was executed in connection with a settlement agreement dated October 2, 2023 (the “Settlement Agreement”). Based upon the Declaration, the Schwartz Trusts³ consent to the entry of a final judgment due to a breach of the Settlement Agreement. Accordingly, the Court orders that:

The Debtors and Liquidating Trust recover from the Schwartz Trusts the amount of \$54,949,935.14, which includes prejudgment interest and postjudgment interest at the federal judgment interest rate **for which execution lie**.

¹ The last four digits of the Debtors’ federal tax identification numbers are 1199 (ONH AFC CS Investors LLC) and 6326 (ONH 1601 CS Investors LLC). The Debtors’ mailing address is 3445 Peachtree Road, Suite 1225 Atlanta, GA 30326.

² Capitalized terms not defined herein shall have the meanings ascribed to them in the Declaration or the Settlement Agreement, as applicable.

³ The Schwartz Trusts are: ES 1 Westend Residence Trust; The Elchonon Schwartz Family Trust; ES28 Investments Trust; ES ONH Trust; and ES Family Life Insurance Trust.